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R.J.J., Inc. and United Union of Roofers, Waterproofers and Allied Workers' Union, Local 81.
Case 20-CA-28622

January 15, 1999

DECISION AND ORDER

BY MEMBERS FOX, LIEBMAN, AND BRAME

Upon a charge filed by the Union on August 12, 1998, the Acting General Counsel of the National Labor Relations Board issued a complaint on September 23, 1998, against R.J.J., Inc., the Respondent, alleging that it has violated Section 8(a)(1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On December 4, 1998, the General Counsel filed a Motion for Summary Judgment with the Board. On December 8, 1998, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated October 15, 1998, notified the Respondent that unless an answer were received by October 22, 1998, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a California corporation with an office and place of business in Sacramento, California, has been engaged in the building and construction industry as a general building, roofing, sheet metal, and metal roofing contractor. During the 12-month period ending December 31, 1997, the Respondent, in conducting its business operations described above, purchased and received at its Sacramento, Cali-

fornia facility, goods valued at more than \$50,000 from suppliers located in the State of California, who in turn had purchased and received those goods and materials directly from points outside the State of California. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

On an unknown date about 1 month before the representation election held on July 31, 1998, the Respondent, by its owner and agent Robert J. Jacino, at the Respondent's facility, interrogated employees regarding their sympathies for the Union. In addition, on an unknown date during the week of June 20, 1998, Jacino told employees that the Respondent would never sign a collective-bargaining agreement with the Union. Further, sometime during the week of June 20, 1998, on about July 27, 1998, and on about July 29, 1998, Jacino told employees that if the Union won the election, the Respondent was going to finish its existing jobs and then close its doors, and the employees would be left without jobs. Finally, on about July 29, 1998, Jacino threatened employees with a wage reduction if the Union won the election, and threatened employees he believed to be supporters of the Union with job loss by telling them that he would be willing to give them a good job reference to work at a unionized roofing company if the Union lost the election.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

ORDER

The National Labor Relations Board orders that the Respondent, R.J.J., Inc., Sacramento, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating employees regarding their sympathies for the Union.

(b) Telling employees that the Respondent would never sign a collective-bargaining agreement with the Union.

(c) Telling employees that if the Union won the election, the Respondent would finish its existing jobs and

then close its doors and leave the employees without jobs.

(d) Threatening employees with a wage reduction if the Union won the election.

(e) Threatening employees it believes to be supporters of the Union with job loss by telling them that it would be willing to give them a good job reference to work at a unionized roofing company if the Union lost the election.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facility in Sacramento, California, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 20, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since June 20, 1998.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 15, 1999

Sarah M. Fox, Member

Wilma B. Liebman, Member

J. Robert Brame III, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT interrogate you regarding your sympathies for the Union.

WE WILL NOT tell you that we would never sign a collective-bargaining agreement with United Union of Roofers, Waterproofers and Allied Workers' Union, Local 81.

WE WILL NOT tell you that if the Union won the election, we would finish our existing jobs and then close our doors, and leave you without jobs.

WE WILL NOT threaten you with a wage reduction if the Union wins the election.

WE WILL NOT threaten you whom we believe to be supporters of the Union with job loss by telling you that we would be willing to give you a good job reference to work at a unionized roofing company if the Union lost the election.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

R.J.J., INC.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."